

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT

INTRODUCTION

I, Desirae Maldonado, being duly sworn, hereby depose and state:

1. I am a Special Agent with the United States Department of Justice, Federal Bureau of Investigation (FBI). I have been employed by the FBI as a Special Agent since January 2019. As such, I am an “investigative or law enforcement officer” of the United States within the meaning of 18 U.S.C. § 2510(7), that is, I am an officer of the United States, who is empowered by law to conduct investigations regarding violations of United States law, to execute warrants issued under the authority of the United States, and to make arrests of the offenses enumerated in 18 U.S.C. §§ 2251 et. seq. In the course of my duties, I am responsible for investigating crimes which include, but are not limited to, child exploitation and child pornography. I have previously been involved in criminal investigations concerning violations of federal laws. Since joining the FBI, I have received specialized training in human trafficking investigations, identifying and seizing electronic evidence, computer forensics, recovery, and social media investigations.

2. The information set forth in this affidavit is known to me as a result of an investigation personally conducted by me and other law enforcement agents. Thus, the statements in this affidavit are based in part on information provided to Special Agents (“SAs”) and other employees of the FBI, as well as other investigators employed by federal or state governments. I have participated in investigations involving persons who collect and distribute child pornography, and the importation and distribution of materials relating to the sexual exploitation of children. I have received training in the areas of child exploitation, and I have reviewed images and videos of child pornography in a wide variety of media forms, including computer media. I have also

discussed and reviewed these materials with other law enforcement officers.

3. In the course of my employment as a sworn law enforcement officer, I have participated in the execution of numerous search warrants resulting in the seizure of computers, magnetic storage media for computers, other electronic media, and other items evidencing violations of state and federal laws, including various sections of Title 18, United States Code § 2251 *et. seq.* involving child exploitation offenses.

STATUTORY AUTHORITY

4. This investigation concerns alleged violations of Title 18, United States Code, § 2252A(a)(2), relating to the distribution of child pornography.

5. Title 18, United States Code, § 2252A(a)(2) makes it a federal criminal offense to knowingly receive or distribute any child pornography or materials that contains child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

DEFINITIONS

6. The term “computer,” as used herein, is defined pursuant to Title 18, United States Code, Section 1030(e)(1), as “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device.”

7. The terms “minor” and “sexually explicit conduct” are defined in Title 18, United States Code, Sections 2256(1) and (2). A “minor” is defined as “any person under the age of eighteen years.” The term “sexually explicit conduct” means actual or simulated:

- a. Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- b. Bestiality;
- c. Masturbation;
- d. Sadistic or masochistic abuse; or
- e. Lascivious exhibition of the genitals or pubic area of any person.

FACTS AND CIRCUMSTANCES

8. On August 23, 2022, and October 3, 2022, Homeland Security Investigations (HSI) provided FBI Norfolk with information indicating an HSI employee, operating in an undercover capacity, observed Viber user “Jason Morgan”, telephone number +1 (540) 230-XXXX, upload child sexual abuse material (CSAM) in a Viber group chat called “Kids Boys” on July 15, 2022. Specifically, Viber user “Jason Morgan”, telephone number +1 (540) 230-XXXX uploaded approximately 38 CSAM videos.

9. On July 20, 2022, HSI served Verizon Wireless with a Summons for subscriber information relating to telephone number +1 (540) 230-XXXX.

10. On August 3, 2022, Verizon Wireless responded with subscriber information for telephone number +1 (540) 230-XXXX pursuant to the Summons issued on July 20, 2022. The following information was provided: Richard J. Whitley, with an address located on Sharps Lane, Williamsburg, Virginia 23185.

11. On December 28, 2022, your affiant queried CLEAR for telephone number +1 (540) 230-XXXX. Results revealed Richard Whitley, DOB: X/XX/1985, SSN: XX-XX-2660, resided at an address located on **Perry Street, Apartment XXXX, Petersburg, Virginia 23803.**

12. On December 28, 2022, Virginia Department of Motor Vehicles (DMV) records for Richard J. Whitley, DOB: X/XX/1985, SSN: XXX-XX-2660 revealed address located on **Perry Street, Apartment XXXX, Petersburg, Virginia 23803**, was listed as Whitley's address.

13. On December 30, 2022, your affiant reviewed the information provided by HSI and observed a screen recording showing Viber username "Jason Morgan," associated with telephone number +1 (540) 230-XXXX, uploaded CSAM videos into Viber group chat "Kids Boys". At the time of the screen-recording conducted by HSI undercover employee, the Viber group chat "Kids Boys" had approximately 88 participants.

14. On December 30, 2022, your affiant reviewed approximately 38 video files uploaded into Viber group chat "Kids Boys" by Viber username "Jason Morgan", telephone number +1 (540) 230-XXXX, and confirmed the images depicted CSAM. A review of two of the files is listed below:

- a. File titled *BQSL2228.MP4*: This video is approximately 43 seconds in length. This video depicts a pre-pubescent male nude from the waist down with his shirt pulled behind his head. The pre-pubescent male is laying on what appears to be a bed. An adult male nude from the waist down is seen anally penetrating the pre-pubescent male. A white substance is observed on the pre-pubescent male's anus and adult male's penis.
- b. File titled *MEUR3049.MP4*: This video is approximately 20 seconds in length. This video depicts a nude pre-pubescent male laying on a bed. An adult male, nude from the waist down, is anally penetrating the pre-pubescent male throughout the video's entirety.

15. On January 5, 2022, a Colonial Heights School Resource Officer (SRO) confirmed Whitley was employed as a school bus driver for North Elementary in Colonial Heights, Virginia. Colonial Heights SRO also confirmed Whitley listed address located at **Perry Street, Apartment XXXX, Petersburg, Virginia 23803**, as his place of residence on his employment record.

16. On January 6, 2022, a United States Postal Inspection Service employee verified Richard Whitley received Amazon packages at the **Perry Street, Apartment XXXX, Petersburg, Virginia 23803** location on December 6, 2022, December 20, 2022, and December 24, 2022.

CONCLUSION

17. Based on the facts set forth above, I submit that probable cause exists to believe RICHARD JEROD WHITLEY, JR., has violated Title 18, United States Code, Section 2252A(a)(2). Title 18, United States Code, Section 2252A(a)(2) relates to material involving the sexual exploitation of minors. Title 18, United States Code, § 2252A(a)(2) makes it a federal criminal offense to knowingly receive or distribute any child pornography or materials that contains child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

FURTHER YOUR AFFIANT SAYETH NOT.



Desirae E. Maldonado
Special Agent
FBI Child Exploitation Task Force
Federal Bureau of Investigation

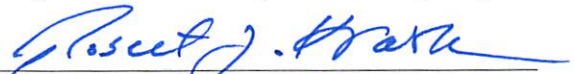
This affidavit has been reviewed for legal sufficiency by Assistant United States Attorney Peter G. Osyf.

Reviewed:



Peter Osyf
Assistant United States Attorney

Subscribed and sworn to before me this 6th day of January 2023, in the City of Norfolk, Virginia.



The Honorable Robert J. Krask
UNITED STATES MAGISTRATE JUDGE